

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
COURT FILE NO: CV-

LORRAINE ADAMS)
Plaintiff)
v.) COMPLAINT
ASSET ACCEPTANCE, LLC.)
and)
FULTON, FRIEDMAN & GULLACE, LLP)
Defendants) JURY TRIAL DEMANDED
)
COMPLAINT

I. JURISDICTION AND VENUE

1. Jurisdiction of this Court arises out of Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. section 1692 *et seq* (hereinafter "FDCPA"), Pennsylvania Fair Credit Extension Uniformity Act, 73 Pa.C.S. 2270.1 *et seq* (hereinafter "FCEUA") and Pennsylvania Unfair Trade Consumer Protection Law, 72 Pa.C.S 201-1, *et seq* (hereinafter "UTCPL"), which prohibit debt collectors from engaging in abusive, false, deceptive, misleading and unfair practices.
2. Venue is proper in this District because Defendant transacts business within this District.

II. PARTIES

3. Plaintiff, Lorraine Adams ("Plaintiff"), is a natural person and is a "consumer" as that term is defined by 15 U.S.C. section 1692a(3).
4. Plaintiff allegedly incurred a financial obligation that was primarily for personal, family or household purposes, in this case, a credit card, and is therefore a "debt" as that term is defined by 15 U.S.C. § 1692a(5).

5. Defendant Asset Acceptance, LLC. ("Asset") is upon information and belief, a corporation located at P.O. Box 2036, Warren, Michigan 48090 and, at all times relevant herein, operated as a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6) and FCEUA, 73 P.S. § 2270.3.and acted by and through their owners, managers, officer, shareholders, authorized representatives, partners, employees, agents, attorneys and/or workmen and by, through and, on behalf of each other.

6. Defendant Fulton, Friedman & Gullace, LLP. ("Fulton"), is, upon information and belief, a professional corporation whose address is listed as 130B Gettysburg Pike, Mechanicsburg, Pennsylvania 17055 and, at all times relevant herein and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6) and FCEUA, 73 P.S. § 2270.3.and acted by and through its owners, managers, officer, shareholders, authorized representatives, partners, employees, agents and/or workmen and acted as legal counsel for Asset.

7. At all times material and relevant hereto, Defendants are jointly, severally, individually, vicariously and/or equitably liable to Plaintiff.

8. Defendants, at all times relevant hereto, were persons who used an instrumentality of interstate commerce or the mails in a business the principal purpose of which was the collection of debts, who regularly collected or attempted to collect, directly or indirectly, debts owed or due asserted to be owed or due another, and/or who, in the process of collecting its own debts, used a name other than its own which would indicate that a third person was collecting or attempting to collect such debts.

III. FACTUAL ALLEGATIONS

9. In a letter to Plaintiff dated July 31, 2012 from Defendant Asset, Asset claim a total of \$11,023.83 is due on behalf of Defendant. A true and correct copy of the letter is attached

hereto as Exhibit "A."

10. In a letter to Plaintiff dated September 11, 2012 from Defendant Fulton, Defendants claim a total of \$11,093.50 is due on behalf of Defendant Asset. A true and correct copy of the letter is attached hereto as Exhibit "B."

11. On October 22, 2012, Defendants filed a Complaint against Plaintiff in Magisterial District Court 15-3-04 in Chester County, Pennsylvania with the docket number CV-249-12. See Exhibit "C." The Complaint was received by Plaintiff on October 25, 2012.

12. Defendants' Complaint claims it is owed a balance of \$10,898.77 by Plaintiff "plus interest which has accrued from the date of assignment at a rate of 6.00% per year in the amount of \$201.88" for a total of \$11,100.65.

13. On December 13, 2012, rather than going to trial, Plaintiff dismissed the case without prejudice. A true and correct copy of the Magisterial District Court's Transcript is attached hereto as Exhibit "D".

14. Defendants have provided no documents allowing for their claim to interest and fees.

15. Upon information and belief, Defendants do not have any documents connected to this account that would allow for the aforesaid claim to interest "from the date of assignment at a rate of 6.00% per year".

16. The aforesaid actions of Defendants are material, deceptive, false and misleading under the FDCPA in that Defendants attempted to collect amounts not authorized by law; and inflated the amounts they were trying to collect.

IV. CAUSES OF ACTION

COUNT I VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. section 1692, et seq.

17. Plaintiff incorporates her allegations of paragraphs 1 through 16 as though set forth at length herein.

18. Defendants' actions as aforestated are false, deceptive, material and misleading to Plaintiff as follows:

- (a) Defendants violated 15 U.S.C. § 1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in violation of.
- (b) Defendants violated 15 U.S.C. § 1692e by making false, deceptive, or misleading representation or means in connection with the debt collection.
- (c) Defendants violated 15 U.S.C. § 1692e(2) by misrepresenting the character, amount or legal status of the alleged debt.
- (d) Defendants violated 15 U.S.C. § 1692f by using unfair and unconscionable means to attempt to collect Plaintiff's alleged debt.
- (e) Defendants violated 15 U.S.C. § 1692f(1) by attempting to collect any amount not authorized by the agreement creating the debt or permitted by law.

19. As a direct and proximate result of the Defendants' illegal collection efforts, Plaintiff has suffered damages in the form of attorney's fees, costs and expenses.

20. As a direct and proximate result of Defendants' illegal collection efforts and communications, Plaintiff has suffered mental anguish, emotional distress, anger, anxiety, and frustration, fear, embarrassment and humiliation.

21. Plaintiff has been seriously damaged by Defendants' violations of the FDCPA and is entitled to actual damages, compensatory damages, costs and attorneys fees.

22. As a result of the foregoing violations of the FDCPA, Defendants are liable to Plaintiff for actual damages, statutory damages, attorney's fees and costs in accordance with 15 U.S.C. § 1692k.

CLAIMS FOR RELIEF

23. Plaintiff incorporates her allegations of paragraphs 1 through 22 though set forth at length herein.

24. The foregoing acts and omissions of Defendants constitute numerous and multiple violations of the FDCPA including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692, et seq.

25. As a result of each of Defendants' violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. §1692k(a)(1); statutory damages in amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Lorraine Adams, prays that judgment be entered against Defendants for the following:

- (1) Actual damages;
- (2) Statutory damages in the amount of \$1,000.00;
- (3) Reasonable attorney's fees and costs;
- (4) Declaratory judgment that the Defendants' conduct violated the FDCPA;
- (5) Such other and further relief that the Court deems just and proper.

COUNT II
VIOLATIONS OF PENNSYLVANIA FAIR CREDIT EXTENSION UNIFORMITY
ACT
(FCEUA, 73 Pa. C.S § 2270.1, et. seq.

26. Plaintiff incorporates her allegations of paragraphs 1 through 25 as though set forth at length herein.
27. Defendants violated FCEUA, 73 P.S. § 2270.4(a), because any violation of FDCPA by a debt collector, as set forth above, constitutes an unfair or deceptive debt collection act or practice under FCEUA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Lorraine Adams, prays that judgment be entered against Defendants for the following:

- (1) An Order declaring that Defendants violated the FCEU;
- (2) Actual damages;
- (3) Treble damages;
- (4) Reasonable attorney's fees and costs;
- (5) Such other and further relief that the Court deems just and proper.

COUNT III
VIOLATIONS OF PENNSYLVANIA UNFAIR TRADE CONSUMER PROTECTION
LAW
("UTCPPL"), 73 Pa. C.S § 201-1, et. seq.

28. Plaintiff incorporates her allegations of paragraphs 1 through 27 as though set forth at length herein.
29. Defendants violated UTCPPL, because, pursuant to FCEUA, 73 P.S. § 2270.5(a), any unfair or deceptive debt collection act or practice under FCEUA by a debt collector or credit, as set forth above, constitutes a violation of UTCPPL.

30. Other unfair or deceptive acts or practices defined as such in 73 P.S. §201-2(4) committed by Defendants include, but are not limited to, the following:

Defendants engaged in fraudulent or deceptive conduct which would create the likelihood of confusion or of misunderstanding.

31. Pursuant to UTPCPL, 73 P.S. § 201-3, such acts and practices are unlawful.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Lorraine Adams, prays that judgment be entered against Defendants for the following:

- (1) An Order declaring that Defendants violated the UTCPL
- (2) Actual damages;
- (3) Treble damages;
- (4) Reasonable attorney's fees and costs;
- (5) Such other and further relief that the Court deems just and proper.

V. DEMAND FOR JURY TRIAL

Plaintiff is entitled to and hereby respectfully demands a trial by jury.

Respectfully submitted,

Mpf8441/s/Michael P. Forbes

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EXHIBIT A

Asset Acceptance, LLC

Toll Free (866)641-0744

Warren, MI

July 31, 2012

Re: Fia Card Services N.A. Is A Wholly Owned Subsidiary Of Bank Of America
Original Creditor Acct #: XXXXXXXXXXXX3176
Asset Acceptance, LLC Acct #: 12-2357004
Current Balance: \$11023.83
Offer Expiration Date: August 30, 2012

Dear Lorraine Adams:

This notification is to inform you that due to the failure to make satisfactory arrangements for the resolution of this account, this matter will be reviewed for placement with an attorney in your area for potential legal action.

At this time, no attorney has personally reviewed your account information.

We are offering you the following opportunities to settle this account. If you take advantage of either of these opportunities or make mutually satisfactory arrangements for repayment, potential legal action on this account can be avoided.

Settlement Offer:

15% off due by August 30, 2012

OR

Payment Arrangement Offer:

\$625.00 per month, your first installment is due by August 30, 2012

It may be possible to extend the deadline under certain circumstances. The offers outlined above are guaranteed through the above referenced date. After that time we reserve the right to modify these offers or revoke the offers entirely. We are not obligated to renew these offers. These offers are void if a previous settlement has been arranged.

The Current Balance may vary due to payments and/or the accrual of interest.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Sincerely,

Lori Berry

Toll Free (866)641-0744 Ext. 0

Hours of Operation: Mon-Thurs 8 am-8 pm; Fri 8 am-5:30 pm EST

A debt collector and representative of Asset Acceptance, LLC

Federal law prohibits certain methods of debt collection, and requires that we treat you fairly. You can stop us from contacting you by writing a letter to us that tells us to stop the contact or that you refuse to pay the debt. Sending a letter does not make the debt go away if you owe it. Once we receive your letter, we may not contact you again, except to let you know that there won't be any more contact or that we intend to take a specific action.

If you have a complaint about the way we are collecting this debt, please write to us at PO Box 1658, Warren, MI 1658, email us at consumercomplaints@assetacceptance.com, or call us toll-free at (877) 208-5809 between 9:00 am and 5:00 pm Eastern Standard Time, Monday - Friday.

The Federal Trade Commission enforces the Fair Debt Collection Practices Act (FDCPA). If you have a complaint about the way we are collecting your debt, please contact the FTC online at www.ftc.gov; by phone at 1-877-FTC-HELP; or by mail at 600 Pennsylvania Ave., N.W., Washington, D.C. 20580.

EXHIBIT B